

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
SUBREGION 33

TIME-O-MATIC, INC.

Employer/Petitioner

and

Case 33-UC-173

INTERNATIONAL UNION, UAW, LOCAL 579

Union

REGIONAL DIRECTOR'S DECISION AND ORDER
CLARIFYING BARGAINING UNIT

The Employer, Time-O-Matic, Inc., is engaged in the manufacture and sale of electronic message centers or signs. The Union, International Union, UAW, Local 579, currently represents all production and maintenance employees employed by the Employer at its Danville, Illinois facility, but excluding office clerical employees, professional employees, guards and supervisory employees. The Employer filed a unit clarification petition with the National Labor Relations Board under Section 9(b) of the National Labor Relations Act seeking to clarify the existing unit to exclude the new classifications of electronics technicians and operators in its BlazeTech division.¹ A hearing officer of the Board held a hearing and the Union filed a brief with me.

The sole issue is whether the existing production and maintenance unit should be clarified to exclude the 4 operators and 5 electronics technicians who work in the Employer's new BlazeTech division. The Employer seeks the exclusion of these individuals because they are technical employees who share more of a community of interest with the Employer's non-unit technical employees in the research and development department rather than the

¹ The Employer's exhibit 11 refers to the classifications of Electronics Technician I, II, and III, and the classifications of Operator and Operator 1, though the record fails to reflect the differences between these different technician and operator classifications. I shall therefore refer to the Electronics Technician I, II, and III classifications collectively in this decision as electronics technicians, and I shall refer to the Operator and Operator 1 classifications collectively as operators and I shall refer to the electronics technicians and operators collectively as the BlazeTech employees.

bargaining unit employees. Contrary to the Employer, the Union argues the BlazeTech employees are an accretion to the certified production and maintenance unit because they perform production work and they share a community of interest with the unit employees. There are currently 18 employees in the existing production and maintenance unit.

I have considered the evidence and arguments presented by the parties. As discussed below, I have concluded that clarification of the unit is appropriate. Contrary to the Employer, however, I have clarified the unit to include the BlazeTech employees because they perform production work which has historically been performed by unit employees.

I. FACTS

From the time of the Union's certification in 1977 until about 1999, employees in the certified production and maintenance unit assembled the electronic circuit boards, also referred to as PC boards, that fit inside the Employer's signs and control the sign's display. These electronic circuit boards are now being assembled by the BlazeTech employees at issue here. Production and maintenance employees also assembled, and still assemble, the "cabinet" or metal box that makes up the frame of the sign. The parties' prior collective-bargaining agreements, through the 1999-2002 agreement, contain references in the job description section to the assembly and repair of the electronic circuit boards, listing such job duties as the assembly of "PC boards", "complex PC boards", "computers", "electronic chassis", "lighting controls", and "message center flipper digits" (a type of electronic circuit board), as well as repair work such as "PC repair work", "PC board rework", and "electronic repair". The 1996-1999 collective-bargaining agreement also contained reference to unit employees operating the "wave soldering" machine and the "washing" machine, both of which types of machinery are currently being operated by BlazeTech employees.

The current 2002-2005 collective-bargaining agreement does not contain any reference to the assembly of the electronic circuit boards. The Employer contends that it outsourced much of the assembly of the electronic circuit boards in about 1996, and continued to phase out

the assembly of these boards through 1999. From 1999 until the creation of the BlazeTech division in 2004, the Employer did not assemble the circuit boards but purchased them from other companies. The Employer had outsourced the assembly of the circuit boards because the technologically advanced circuit boards required a precision that could not be achieved by hand due to the much smaller size of the electronic components. The Employer did not have the machinery needed to produce the modern circuit boards and the unit employees did not have the necessary skills and training to operate such machinery.

In May of 2004, the Employer purchased the equipment necessary to again produce the electronic circuit boards and in late 2004, began the pilot operation of the BlazeTech division which currently produces the electronic circuit boards. The BlazeTech division is located in an enclosed section of the existing building, with one wall of the BlazeTech area being adjacent to a production and maintenance area where unit employees work. The parties have not had any contract negotiations since the BlazeTech division was created because the current contract is not due to expire until September 2005. The Employer notified the Union in early January 2005, that the employees hired in the BlazeTech division for the positions of operator and electronics technician would be non-unit employees. Four of the nine BlazeTech employees hired by the Employer are non-unit employees who previously worked in the Employer's research and development department either as full-time employees or as interns and were "permanently" transferred to the BlazeTech division. All four of these research and development department employees needed training on the BlazeTech equipment. The training was provided by the Employer. The other five BlazeTech employees were new employees hired from outside the company.

The Employer prefers that BlazeTech electronics technicians have a 2-year associate's degree in electronics. The BlazeTech operators, however, appear to have no such requirement. While the operator job description provided by the Employer states that the operators need to have a 2-year degree, the Employer's human resources director testified that the "dividing line"

between the electronics technicians and the operators is that the technicians are required to have a 2-year degree in electronic technology while the operators are not. None of the four BlazeTech operators have a 2-year electronics degree. One operator has only 1 year of electronics course work and is working toward obtaining a 2-year degree. A second operator has an associate's degree in industrial maintenance and a third in economics. The fourth has a bachelor's degree in religion and music and is on "probation" while he obtains the necessary education. The Employer also requires that BlazeTech employees become IPC610 certified, which allows the employees to be able to inspect the circuit boards and ensure they meet the required assembly standards set forth in the IPC610. Training for this certification is provided by the Employer and is not a prerequisite to hiring. Five of the nine BlazeTech employees are currently IPC610 certified.

The BlazeTech operators and electronics technicians are currently using machines to assemble the electronic circuit boards that unit employees previously assembled primarily by hand. The BlazeTech employees assemble the circuit boards in an enclosed, controlled "clean room" environment to keep the electronic circuitry from becoming contaminated or from being damaged by static. Parts for the assembly of the electronic circuit boards are received by unit employees in shipping and receiving before they are sent to the BlazeTech division. Once the circuit boards are completed by the BlazeTech employees, they are then given to unit employees to install inside the cabinet of the sign. The circuit boards previously assembled by the unit employees were also placed inside the cabinet of the sign and performed the same basic functions as the circuit boards being assembled currently by the BlazeTech employees.

The duties of the BlazeTech electronics technician include operating all machinery including the "surface mount" machinery, performing daily maintenance, inspecting the quality of the product, repairing circuit boards, and reading and interpreting schematics. The operator's duties include operating particular machinery, including the wave solder machine and the wash machine, as well as testing the assembled circuit boards and ensuring the machinery and

assembly process remain within optimal established standards. The wave solder machine and the wash machine are specifically listed in the parties' prior collective-bargaining agreements as having been operated by unit employees.

The bargaining unit employees in sheet metal fabrication have duties similar to those of the BlazeTech employees. The sheet metal fabrication employees set-up, operate, and program the Motrum and Centrum machines which punch holes in the sheet metal for the cabinet assembly, and the Amada press which is used to make boxes and put angles on sheet metal parts. The Employer's human resources director could not state what the differences were between the programming needed to operate these machines used by unit employees and the programming required to operate the BlazeTech machines. The bargaining unit machine operators, like the BlazeTech employees, are also required to read and interpret blueprints, operate computers, and inspect the product to ensure the machines are operating within established standards.

II. ANALYSIS

Unit clarification is appropriate for resolving ambiguities concerning the unit placement of newly created job classifications. *Union Electric Co.*, 217 NLRB 666, 667 (1975). Once it is established, however, that a new classification is performing the same basic functions as those historically performed by a unit classification, the new classification is properly viewed as remaining in the unit. *Premcor, Inc.*, 333 NLRB 1365, 1366 (2001). In such circumstances, an accretion analysis is inapplicable. *Id.* As I find the employees in the new classifications of BlazeTech operators and electronics technicians perform production work historically performed by unit employees, I will clarify the production and maintenance unit to include them. I further find that an accretion analysis is inapplicable in this case, and therefore it is not necessary to address the Employer's and Union's accretion and community of interest arguments.

The functions of the BlazeTech employees and those of the bargaining unit employees who historically produced the circuit boards are identical with the only differences arising in the

manner in which the production functions are carried out. BlazeTech employees use advanced technology to assemble the electronic circuit boards that unit employees previously assembled primarily by hand, but also using some of the same types of machinery being used by BlazeTech employees, including the wave solder and the wash machine. These differences in the manner of production brought about by the utilization of new technology do not negate the fact that the BlazeTech employees perform production work and produce the same product – electronic circuit boards. See *Premcor, Inc.*, supra at 1366.

Further, even assuming the Employer established that the BlazeTech operators and electronics technicians perform work that is technical in nature requiring advanced education and the use of independent judgment necessary to qualify as technical employees under the Act, this also does not negate the fact that the BlazeTech employees are performing production work historically performed by unit employees. The fact that the BlazeTech employees use state-of-the-art machinery, have an increased level of responsibility and discretion in performing their duties, have advanced computer skills, are required to have the necessary technical skills to operate the various machinery and monitor the production process, and must have special training and certification, all do not warrant excluding the BlazeTech employees from the bargaining unit. Id. Accordingly, I shall clarify the production and maintenance unit to include the classifications of BlazeTech operators and BlazeTech electronics technicians.

III. CONCLUSIONS AND FINDINGS

Based upon the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction in this case.
3. The Union is a labor organization within the meaning of the Act.

4. The Employer seeks to clarify the currently recognized bargaining unit to exclude the BlazeTech operators and electronics technicians, and the Union seeks to include these classifications in the unit.

5. Clarification of the bargaining unit is warranted to include the classifications of BlazeTech operators and electronics technicians.

IV. ORDER CLARIFYING BARGAINING UNIT

The parties' existing production and maintenance unit is hereby clarified to include the classifications of BlazeTech operators and electronics technicians.

V. RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570-0001. This request must be received by the Board in Washington by **August 17, 2005**. The request may not be filed by facsimile.

Dated: August 3, 2005
at: St. Louis, Missouri

/s/ [Ralph R. Tremain]
Ralph R. Tremain , Regional Director
National Labor Relations Board, Region 14
and Subregion 33